

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SUSAN A. BROOKS,

Plaintiff,

v.

16-CV-372  
ORDER

THE COMMISSIONER of the Social  
Security Administration,

Defendant.

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On May 11, 2016, the plaintiff commenced this action. Docket Item 1.

On August 1, 2017, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(B). Docket Item 6. On November 27, 2017, the plaintiff moved for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 10; on January 26, 2018, the defendant responded and moved for judgment on the pleadings. Docket Item 12. On May 31, 2018, Judge McCarthy issued a Report and Recommendation (“R&R”) finding that the plaintiff's motion should be granted and that the defendant's motion should be denied. Docket Item 13. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72

requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to grant the plaintiff's motion and deny the defendant's motion.

For the reasons stated above and in the R&R, the plaintiff's motion for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 10, is GRANTED; the defendant's motion for judgment on the pleadings, Docket Item 12, is DENIED; the decision of the Commissioner is VACATED; and the matter is REMANDED for further administrative proceedings consistent with Judge McCarthy's R&R. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: July 1, 2018  
Buffalo, New York

**s/Lawrence J. Vilaro**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE